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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/098,698 | 03/15/2002 | Royce D. Jordan JR. | 010563 | 5128 |

38823 7590 07/13/2006

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DANIEL JR, WILLIE J

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| ART UNIT | PAPER NUMBER |
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2617

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/098,698

Applicant(s)

JORDAN, ROYCE D.

Examiner

Willie J. Daniel, Jr.

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's RCE amendment filed on 13 December 2005 which is a resubmission of RCE amendment filed 07 September 2005. **Claims 1-23** are now pending in the present application. This office action is made **Non-Final**.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 December 2005 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 22-23 are drawn to a "...computer program..." (descriptive material) *per se* and considered non-statutory subject matter.

- a. **Claim 22** recites the limitation "...computer program comprising instructions..." in line(s) 2 of the claim.

Regarding **claim 22**, the Examiner suggests inserting in line(s) 2 language such as "...comprising instructions for causing the --*device A*-- to perform the steps to..." which is an example, where --*device A*-- represents the element, equipment, or machine that will execute the instructions of the computer program. The suggestion for claim 22 is example and the Examiner recommends that the applicant clarify the claim language as supported by the specification.

- b. **Claim 23** recites the limitation "...computer program..." in line(s) 1 of the claim.

The language of the claim(s) raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter.

(See MPEP § 2106.IV.B.1(a)). Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 7-23 are rejected under 35 U.S.C. 102(e) as being anticipated by **Hein-Magnussen et al.** (hereinafter Hein-Magnussen) (US 2004/0132407 A1).

Regarding **claim 1**, Hein-Magnussen discloses a communications (see pg. 5, [0128]; Figs. 2a-b, 3a-b) method, comprising:

receiving a request for a telecommunications service from a communication terminal (200, 200') which reads on the claimed "wireless client" (see pg. 6, [0142-0145]; pg. 7, [0152-0153, 0156]; Figs. 2a-b, 3a "ref. 302", 3b), where the user (201) of communication terminal (200) establishes a connection with user (201') of communication terminal (200'); providing a communication unit (202) which reads on the claimed "local exchange point of presence" comprising a gateway (202; e.g., wireless communications module) selected to the wireless client (200) in response to the request, the local exchange point of presence (202) based on the geographic location of the wireless client (200) (see pg. 6, [0132-0134, 0137-0138, 0148], Figs. 2a-c), where the server and router keeps track of where the communication terminals (200) are currently located to determine the nearest accessible communication unit (202) for access. The communication units (202, 202') are devices (e.g.,

computer/server) that provide communication access to terminals (200) in a network area (e.g., LAN) and connect the terminals (200) to an external network (e.g., Internet). ; and providing the telecommunications service to the wireless client (200) with a local telephone number through the local exchange point of presence (202) (see pg. 2, [0033]; pg. 6, [0132-0134, 0136, 0139-0140, 0143, 0148]; pg. 7, [0152]; Figs. 2a-b).

Regarding **claim 2**, Hein-Magnussen discloses the communications method of claim 1, wherein the telecommunications service comprises at least one of a messaging service, an information service, a paging service, a voicemail service, a facsimile service, an interactive voice response service, and a text-to-speech service (see pg. 6, [0139-0140]; pg. 7, [0154]; pg. 4, [0087]; Figs. 3a “ref. 303, 312”, 3b “ref. 303, 312”).

Regarding **claim 3**, Hein-Magnussen discloses the communications method of claim 1, wherein the wireless client (200) comprises at least one of a mobile telephone, a personal digital assistant, and an interactive pager (see pg. 6, [0142, 0134]; pg. 7, [0152]; Figs. 22a-b), where the communication is established using terminals such as a computer, mobile telephone, and/or PDA.

Regarding **claim 7**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the local exchange point of presence (202, 230) to the wireless client (200) comprises detecting a geographic location of the wireless client (200) (see pg. 6, [0135-0138, 0143, 0148]; Figs. 2a-b), where the server and router keeps track of where the communication terminals (200) are currently located to determine the nearest accessible communication unit (202) for access.

Regarding **claim 8**, Hein-Magnussen discloses the communication method of claim 7, wherein the geographic location of the wireless client (200) is detected during call set-up (see pg. 6, [0135-0138, 0142-0143, 0148]; pg. 7, [0153]; Figs. 2a-b), where the server and router keeps track of where the communication terminals (200) are currently located to determine the nearest accessible communication unit (202) for access.

Regarding **claim 9**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the local exchange point of presence (202, 230) to the wireless client (200) comprises referencing a database (210) which reads on the claimed “lookup table” associating geographic locations with local contact information (see pg. 6, [0135-0138, 0142-0144]; Figs. 2a-b).

Regarding **claim 10**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the local exchange point of presence (202) comprises providing a local telephone number to the wireless client (200) (see pg. 6, [0136, 0147-0148]; pg. 2, [0033]; pg. 3, [0052]), where the terminal (200) can call terminal (200') via a local network or internet using an IP address in which a phone number would be inherent for the IP address to be converted to or associated with a phone number.

Regarding **claim 11**, Hein-Magnussen discloses the communications method of claim 10, wherein the local telephone number includes an exchange (202) corresponding to the geographic location of the wireless client (200) (see pg. 6, [0136-0137, 0142-0143, 0147-0148]; pg. 2, [0033]; pg. 3, [0052]), where the terminal's location is tracked by the server which provides connection via the nearest unit.

Regarding **claim 12**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the local exchange point of presence (202, 230) comprises providing a local IP address to the wireless client (200) (see pg. 6, [0136, 0142-0144]).

Regarding **claim 13**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the telecommunications service comprises routing messages from a local gateway (202) over an internet (220) which reads on the claimed “intermediate network” to a remote gateway (202', 230), thereby avoiding long distance charges (see pg. 6, [0142-0148]; pg. 1, [0005-0006]; Figs. 2a-b).

Regarding **claim 14**, Hein-Magnussen discloses the communications method of claim 14, wherein the intermediate network (220) comprises at least one of the Internet (220), the World Wide Web (220), and a telephone network (220) (see pg. 6, [0147]; pg. 1, [0005-0006]).

Regarding **claim 15**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the telecommunications service comprises routing messages from a local gateway wireless client (202) through at least one router (212) which reads on the claimed “top node” to a remote gateway (230), thereby avoiding long distance charges (see pg. 6, [0147, 0137]; pg. 1, [0005-0006]; Figs. 2a-b, 3a-b).

Regarding **claim 16**, Hein-Magnussen discloses the communications method of claim 1, wherein providing the telecommunications service comprises communicating with the wireless client (200) from a first gateway (202) local to the geographic location of the wireless client (200) (see pg. 6, [0132, 0136-0137, 0142-0144]; Figs. 2a-b, 3a-b).

Regarding **claim 17**, Hein-Magnussen discloses the communication method of claim 16, further comprising:

communicating with a second wireless client (200') from a second gateway (202', 230) local to the geographic location of the second wireless client (200'), the first (202) and second (230) gateways being geographically remote from each other (see pg. 6, [0132, 0136-0137, 0142-0144, 0148]; Figs. 2a-b, 3a-b); and

routing messages from the first gateway (202) to the second gateway (202') through at least one of an intermediate network (220) and a top node (212), thereby avoiding long distance charges (see pg. 6, [0132, 0135-0138, 0142-0144, 0147-0148]; pg. 1, [0005-0006; Figs. 2a-b, 3a-b).

Regarding **claim 18**, Hein-Magnussen discloses the communication method of claim 16, further comprising:

communicating with a service servers (210) which reads on the claimed "server system" from a second gateway (202', 230) local to the geographic location of the server system (210), the first (202) and second (202') gateways being geographically remote from each other (see pg. 6, [0132, 0136-0137, 0142-0144, 0148]; Figs. 2a-b, 3a-b); and

routing messages from the first gateway (202) to the second gateway (202') through at least one of an intermediate network (220) and a top node (212), thereby avoiding long distance charges (see pg. 6, [0132, 0135-0138, 0142-0144, 0147-0148]; pg. 1, [0005-0006]; Figs. 2a-b, 3a-b).

Regarding **claim 19**, Hein-Magnussen discloses the communications method of claim 18, wherein the requested telecommunications service is provided by the server system (210) (see pg. 6, [0135]; Figs. 2a-b, 3a-b).

Regarding **claim 20**, Hein-Magnussen discloses a communications apparatus comprising a gateway (202) (see pg. 5, [0128]; Figs. 2a-b, 3a-b) configured to:

receive a request for a telecommunications service from a wireless client (200) (see pg. 6, [0142-0145]; pg. 7, [0152-0153, 0156]; Figs. 2a-b, 3a “ref. 302”, 3b), where the user (201) of communication terminal (200) establishes a connection with user (201’) of communication terminal (200’);

provide a local exchange point of presence to the wireless client (200) in response to the request, the local exchange point of presence (202) based on the geographic location of the wireless client (200) (see pg. 6, [0132, 0137-0138, 0148]; Figs. 2a-c), where the server and router keeps track of where the communication terminals (200) are currently located to determine the nearest accessible communication unit (202) for access; and

provide the telecommunications service to the wireless client (200) with a local telephone number through the local exchange point of presence (202) (see pg. 2, [0033]; pg. 6, [0132-0134, 0136, 0139-0140, 0143, 0148]; pg. 7, [0152]; Figs. 2a-b).

Regarding **claim 21**, Hein-Magnussen discloses a communications apparatus (see pg. 5, [0128]; Figs. 2a-b, 3a-b), comprising:

means (202) for receiving a request for a telecommunications service from a wireless client (200)(see pg. 6, [0142-0145]; pg. 7, [0152-0153, 0156]; Figs. 2a-b, 3a “ref. 302”, 3b),

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where the user (201) of communication terminal (200) establishes a connection with user (201') of communication terminal (200');

means (220) for providing a local exchange point of presence (202) to the wireless client (200) in response to the request, the local exchange point of presence (202) comprising a gateway (202; e.g., wireless communications module) selected based on the geographic location of the wireless client (200) (see pg. 6, [0132-0134, 0137-0138, 0148]; Figs. 2a-c), where the server and router keeps track of where the communication terminals (200) are currently located to determine the nearest accessible communication unit (202) for access. The communication units (202, 202') are devices (e.g., computer/server) that provide communication access to terminals (200) in a network area (e.g., LAN) and connect the terminals (200) to an external network (e.g., Internet). ; and

means (212) for providing the telecommunications service to the wireless client (200) with a local telephone number through the local exchange point of presence (202) (see pg. 2, [0033]; pg. 6, [0132-0134, 0136, 0139-0140, 0143, 0148]; pg. 7, [0152]; Figs. 2a-b).

Regarding **claim 22**, Hein-Magnussen discloses a computer program stored on a computer-readable medium (see pg. 4, [0104-0105]), the computer program comprising instructions to:

receive a request for a telecommunications service from a wireless client (200) (see pg. 6, [0142-0145]; pg. 7, [0152-0153, 0156]; Figs. 2a-b, 3a "ref. 302", 3b), where the user (201) of communication terminal (200) establishes a connection with user (201') of communication terminal (200');

provide a local exchange point of presence (202) to the wireless client (200) in response to the request, the local exchange point of presence (202) comprising a gateway (202; e.g., wireless communications module) selected based on the geographic location of the wireless client (200) (see pg. 6, [0132-0134, 0137-0138, 0148]; Figs. 2a-c), where the server and router keeps track of where the communication terminals (200) are currently located to determine the nearest accessible communication unit (202) for access. The communication units (202, 202') are devices (e.g., computer/server) that provide communication access to terminals (200) in a network area (e.g., LAN) and connect the terminals (200) to an external network (e.g., Internet). ; and

provide the telecommunications service to the wireless client (200) with a local telephone number through the local exchange point of presence (202) (see pg. 2, [0033]; pg. 6, [0132-0134, 0136, 0139-0140, 0143, 0148]; pg. 7, [0152]; Figs. 2a-b).

Regarding **claim 23**, Hein-Magnussen discloses the computer program of claim 22, wherein the computer-readable medium comprises at least one of a disk, a client device, a network device, and a propagated signal (see pg. 6, [0132, 0143]; pg. 4, [0104-0105]; Figs. 2a-b, 3a-b).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hein-Magnussen et al.** (hereinafter Hein-Magnussen) (US 2004/0132407 A1) in view of **Chen et al.** (hereinafter Chen) (US 2003/0054810 A1).

Regarding **claim 4**, Hein-Magnussen discloses the communications method of claim 1, further comprising establishing a connection to the wireless client (200) and providing a menu of telecommunications services (see pg. 6, [0139,0142-0143,0140]; Figs. 3a), where the server offers different services to the portable communication terminal in which a menu would be inherent. Hein-Magnussen does not specifically disclose having the feature services capable of being displayed by the wireless client. However, the examiner maintains that the feature services capable of being displayed by the wireless client was well known in the art, as taught by Chen.

In the same field of endeavor, Chen discloses the feature services capable of being displayed by the cell phone (204a) which reads on the claimed “wireless client” (see pg. 3, [0049]; pg. 6, [0075-0078] pg. 8, [0116-0119]; Figs. 1, 11B, 15, 18A-C), where the screenshots or applet displays the services on the screen of the mobile devices (204a).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hein-Magnussen and Chen to have the

feature services capable of being displayed by the wireless client, in order to have interaction with a user of a mobile device with limited bandwidth and screen space, as taught by Chen (see pg. 6, [0075]).

Regarding **claim 6**, Hein-Magnussen discloses wherein receiving the request for telecommunications service comprises receiving a user (201) input (see pg. 6, [0142-0143; Fig. 3a “ref. 302”]). Hein-Magnussen does not specifically disclose having the feature input through a graphical user interface displayed on the wireless client. However, the examiner maintains that the feature input through a graphical user interface displayed on the wireless client was well known in the art, as taught by Chen.

Chen further discloses the feature input through a applet or screenshot (600) which reads on the claimed “graphical user interface” displayed on the wireless client (204a) (see pg. 3, [0049]; pg. 6, [0075-0078] pg. 8, [0116-0119]; Figs. 1, 11B, 15, 18A-C), where the user has interaction with the screenshots or applet which displays the services on the screen of the mobile devices (204a).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hein-Magnussen and Chen to have the feature input through a graphical user interface displayed on the wireless client, in order to have interaction with a user of a mobile device with limited bandwidth and screen space, as taught by Chen (see pg. 6, [0075]).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Hein-Magnussen et al.** (hereinafter Hein-Magnussen) (US 2004/0132407 A1) in view of **Chen et al.** (hereinafter Chen) (US 2003/0054810 A1) as applied to claim 4 above, and further in view of **Mousseau et al.** (hereinafter Mousseau) (US 5,559,800).

Regarding **claim 5**, the combination of Hein-Magnussen and Chen discloses the communications method of claim 4, wherein establishing a connection to the wireless device (200) comprises exchanging user information (see pg. 6, [0143-0145]; Figs. 2a-b, 3a-b), where the terminal transmit and forward information such as IP address and alias over a wireless connection. The combination of Hein-Magnussen and Chen does not specifically disclose having the feature exchanging information over a control channel. However, the examiner maintains that the feature exchanging information over a control channel was well known in the art, as taught by Mousseau.

In the same field of endeavor, Mousseau discloses the feature exchanging information over a control channel (see col. 6, lines 12-24; Fig. 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hein-Magnussen and Chen with Mousseau to have the feature exchanging information over a control channel, in order for the DTE (10) user to send data to the gateway, as taught by Mousseau (see col. 6, lines 15-19).

Response to Arguments

6. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197

(toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



WJD, JR
10 July 2006



ERIKA A. GARY
PRIMARY EXAMINER